

**City Council of the Mayor and Council of New Castle**  
**Regular Council Meeting at Town Hall – 201 Delaware Street – New Castle**  
**Tuesday – June 9, 2009 – 7 p.m.**

**Present:**

Council President William Barthel  
Councilperson John Cochran  
Councilperson John Gaworski  
Councilperson Ted Megginson  
Councilperson Teel Petty

**Also Present:**

City Treasurer Janet Carlin, City Administrator Cathryn Thomas, Building Official Jeff Bergstrom, City Solicitor Roger Akin

**Approval of Minutes by Date**

A motion was made Councilperson Cochran to approve the minutes of May 7, 2009, May 12, 2009, May 19, 2009, May 21, 2009, May 26, 2009. The motion was seconded by Councilperson Megginson. The motion was approved unanimously.

**Approval of Treasurer's Report**

As of May 31, 2009, petty cash on hand was \$400. Total cash in the Wilmington Trust Accounts was \$474,704.62. Total certificates of deposit in the Delaware Government Investment Pool, \$828,295.71. Total cash on hand \$1,303,000.33.

Councilperson Petty made a motion to approve the unaudited treasurer's report. Councilperson Cochran seconded the motion. It passed unanimously.

**Report from the City Administrator**

Administrator Thomas provided a written report to City Council. She also acknowledged the work of the Public Works crews during the recent storm that knocked down trees throughout the City. She applauded the City's workers and its sister crews from the Municipal Services Commission. The private contractors also were thanked for their efforts.

President Barthel said administrator's report was accepted as presented.

**Approval of Staff Reports**

Building Official Bergstrom provided an update on the grants discussed at the previous regular City Council meeting. He received notice the City was awarded a review for three different projects for full funding for all three grants for a total of \$1.35 million. The City needs to make a decision on applying for the funding formally. The grant application is due July 3. That would still not be a commitment to spend City dollars. Officials planned to review the projects and decide on making a formal application.

President Barthel said the other staff reports were accepted as presented.

**Grant Review**

Councilperson Cochran said there is a Livable Delaware Grant for \$5,640; a Police Drug Grant for

\$4,793.34; a Police SALLE Grant for \$7,091.07; U.S. Department of Justice Grant, \$1,121.61; and another Department of Justice Grant for \$367.36.

Also there were grants for expenses for Ramesh Batta Associates for \$3,000; Tri-State Grouting, \$1,200; and Cirillo Bros. Inc. for \$1,678.80.

Administrator Thomas explained the Livable Delaware Grant was a very old one that was due to expire and the City received the full amount.

### **Communications**

Councilperson Petty thanked the public works department, City administration and MSC for the fine job they did during the storm.

Councilperson Petty received a certificate for a seminar she attended concerning emergency management relative to derailment of freight cars.

Councilperson Petty also said that a few months ago CPR Construction received approval to build 12 townhouses in the community of Buttonwood. The residents there, including herself, are concerned about the construction route being taken. It is already a dangerous corner. Residents want to know how the construction vehicles coming into the area are going to be handled and are concerned about the safety of pedestrians if vehicles are parked there. They are also concerned about runoff water. The residents are happy with development coming. Another concern, however, is the name Buttonwood Village. Residents do not want it to be called that. It has always been called Buttonwood.

Building Official Bergstrom said the construction has started. He anticipates a lot of the construction vehicles will be off the street and away from the curb. The plan for the subdivision addresses the stormwater management. The name of the community was on the record plan. A subdivision requires a name. He indicated it is not an issue for the builder.

### **Business from the Floor (concerning agenda item only)**

There were no speakers.

### **Business from Council President**

President Barthel recognized newly elected City Clerk Michael Dickinson for doing an excellent job, providing City Council with complete information and being at the many meetings held.

### **Unfinished Business**

1. Report on status of Verizon Cable Franchise Agreement negotiations.

President Barthel said City Council invited Verizon to attend the meeting to provide an update, particularly for the new members of City Council who had not been part of earlier negotiations. He had been told they would attend, until a short time ago when he was told it was not in company's "best interest" to attend.

City Solicitor Akin said he would address the final sticking point either in open session or executive session.

Administrator Thomas said she and President Barthel had discussed it early and felt it would be better to discuss it in an executive session.

Councilperson Petty moved that the matter be tabled until the executive session. Councilperson Megginson seconded the motion. The motion passed unanimously.

2. City Planner Marian Hull, from URS Corp., provided a summary of final revisions and an overview of the final version of the Comprehensive Plan. The changes reflected suggested changes after a state review and many of the public comments. Corrections were made after receiving feedback from Immanuel Church about labeling one of its parcels.

President Barthel thanked the Planning Commission for doing a very good job on the plan. He said the plan addresses the need for new business in town and the parking situation, but it seems there isn't a lot discussion about the potential for the waterfront. He asked if there was a feasibility study on the waterfront, and included the parking issue, if that would make a grant more likely to be obtain.

City Planner Hull said that is correct and she would favor that.

President Barthel made a motion for an amendment to the plan that would include a feasibility study for the waterfront. The plan would include what can be done, in conjunction with the overall comprehensive plan, and would address how to address parking issues in the plan. Councilperson Cochran seconded the motion. The motion to accept the amendment was approved unanimously.

3. First and Second Reading of Ordinance No. 463, to Adopt the Update to the 2003 Comprehensive Plan, entitled the 2009 City of New Castle Comprehensive Plan.

Council President Barthel performed the first and second readings of the proposed ordinance.

### **New Business**

1. First and Second Reading of Ordinance No. 464, establishing a Curfew applicable to persons 17 years old and younger, who shall not be allowed unaccompanied in public overnight in the City of New Castle.

President Barthel said a public hearing on this ordinance was held prior to the regular City Council meeting.

City Solicitor Akin said earlier that day Administrator Thomas had given him a heads up about a new Court Of Appeals ruling in New York State, that state's highest court, which stuck down a Rochester, N.Y. curfew. He does not believe it has any significant impact on the proposed New Castle ordinance. He would, however, like the opportunity to review it more closely. When he read the proposed City of New Castle ordinance, he felt it was the most extensive, sensitive curfew ordinance in the state of Delaware. Most are a single paragraph with no recognition of exceptions. He is very comfortable the proposed City ordinance will easily pass muster if anyone challenges it.

2. Motion, Discussion and Vote on Resolution No. 2009-12, relative to 201 Harmony Street, concerning a request to allow an encroachment to continue to exist in the right-of-way to accommodate an existing porch on Second/Market Street and an existing outside basement entry on Harmony Street.

President Barthel read a letter from the property owners, Ann Hoffman and John Chatley III, explaining they recently purchased the property. They requested a letter of no objection from the City. They agree

to hold the City harmless, if it in the future it is destroyed it would be rebuilt without any encroachment, and if the City in the future decides to improve the street the owners agree to remove the encroachment at the property owners' expense.

Councilperson Gaworski asked if the width of the sidewalk on Second Street is wide enough.

Building Official Bergstrom said it has been that way for at least 50 years.

Councilperson Megginson made a motion to approve the resolution. Councilperson Cochran seconded the motion. It passed unanimously.

3. City Council discussed a request for the City to act as a sponsor for the Wharf Dance to be held in September, which would also include the City allowing its property on the Wharf to be used for the event.

City Administrator Thomas said it is an event City Council approved last year.

City Solicitor Akin said he had some concerns including it involving City land, and the consumption of alcohol in a relatively unrestricted space near a body of water. He has some liability concerns. The group does not maintain a policy of liability insurance nor is an insurance company behind it. Until liability issues are ironed and more details on crowd control and alcoholic consumption control, he has concerns. It does expose the City to some risk.

Lula Atherton said she is chairwoman of the event, which is a longstanding tradition in New Castle. The same event was held last year and it raised thousands of dollars for the library expansion. The project is the same target of proceeds this year. The group is a band of volunteers that cannot afford the insurance. The perimeter of the wharf for the event is well-fenced, well-lit. There were New Castle Police there last year. All servers are licensed. The event is scheduled for Sept. 12 from 7 to 11 p.m.

Councilman Cochran asked who covered it last year.

Administrator Thomas explained the City covered it last year. The group investigated insurance and after learning the cost would be prohibitive for the group asked the City to sponsor it.

Administrator Thomas said that if the City planned to do this regularly she would need to contact insurance carriers to determine if there is any other cost. The normal course would be for the City to issue a parade and assembly permit for City property, but the group would be expected to sign a hold-harmless agreement and provide a certificate of insurance.

Councilman Cochran suggested contacting the Library board of trustees about its insurance since the Library is the recipient of funds. Meanwhile the City will investigate further.

Lula Atherton said 175 people attended last year. The maximum attendance level was 200.

City Solicitor Akin said the City always can fall back on sovereign immunity. He would feel more comfortable if the City's liability carrier would pick it up as a risk.

Earl Carpenter clarified that alcohol is not served during Separation Day in Battery Park.

President Barthel said the City will be make inquiries and address it at a future meeting, with an expectation that it will proceed with approval of the event.

4. Motion, Discussion and Vote on a Bank Resolution to pay \$25,000 to the New Castle Library Board of Trustees, as a contribution to the Capital Library Expansion Project., which the City pledged to pay a total of \$300,000, broken down to pay \$100,000 each fiscal year starting with FY 08/09, and that the City is currently making four payments in the last four months of FY 08/09, to meet the \$100,000 annual contribution.

Councilperson Cochran explained this is the final payment for this year. He would like to see it tabled until the next meeting. The City is in the process of talks with negotiating with the union and working through its budget process.

Councilperson Petty said the City already has committed to pay this money. The organization is looking for this money.

Councilperson Gaworski said he did not see a problem with tabling it.

Councilperson Megginson said it was his understanding it was not due until August.

Administrator Thomas said the full payment would be due, based on the City Council's original pledge and resolution, by June 30.

Councilperson Cochran said he is not saying the City won't pay the \$25,000 but he would like to hold off until the final budget determinations.

Councilperson Cochran made a motion to table the resolution to pay the final \$25,000 to the library for this fiscal year until the end of June. There was no second for the motion.

Councilperson Petty made a motion to approve the resolution to pay the \$25,000 to the New Castle Library Board of Trustees as the final payment for the fiscal year. Councilperson Gaworski seconded the motion.

Councilperson Petty, Councilperson Gaworski and Councilperson Megginson, voted in favor.  
Councilperson Cochran voted against.  
Council President Barthel abstained.

The resolution passed 3-1, with one abstention.

5. Discussion of, and decision regarding, a \$50,000 grant award available to the City of New Castle under the Stimulus Package Energy Efficiency Block Grant Program.

Administrator Thomas said last month the City Council was looking at two proposals: solar panels on the City Administration building and one from the Library board for use for the geothermal unit for the renovation. She has been working with Building Official Bergstrom and others to look at other possibilities. Those include replacing the entire HVAC system at the City Administration Building; installing storm windows at the City Administration building; and installing new, energy-efficient lighting at the City Administration building.

Any of the projects would need to comply with the rules of the federal program. The block grant amount is \$50,000.

She attended a meeting at the County of New Castle last month about the program. The county has selected a consultant, Ameresco, and did a major project already. They would like to see the local government piggyback on the county's effort. The City of New Castle could leverage the \$50,000 and get more done. The grant allows a general approach to use the money to develop a strategy for the municipality and then implement it.

Yvonne Gordon, chief of administrative services for New Castle County, said she is responsible for energy efficiency projects. Ameresco is an energy services company. The county had received \$3.7 million in federal funding and has already gone through the process of energy efficiency with the county buildings.

Ameresco does an audit of the City facilities and looks at costs and paybacks. You leverage the current cost of utilities. The county is offering to support municipalities in the application process and partner with to leverage the money. There are a lot of pots of money coming into the state that are available. The county is looking to help partners in the community.

Administrator Thomas said City Council needs to decide based on their comfort level. It can pick a project or projects, or go the other route which would get the \$50,000 and potentially bring in additional money. An alternative would be for City Council to OK going the other route, but also prioritize the individual projects and give the City Administrator the option to go with individual projects if warranted.

Yvonne Gordon said the county did that type of prioritization. The county is going to leverage the \$3.7 million into more than \$8 million in projects.

Paul Freebery suggested the City purchase a thermal imaging camera and train someone to use it.

President Barthel said he would like a motion to apply for the grant for use in the developing energy strategies and implementation plans, but would like to also have City Council develop priorities, which would be used as an alternative.

Councilperson Cochran said the top priority should be the HVAC system at the City Administration building and then storm windows. Councilpersons Petty, Gaworski and Megginson agreed.

Councilperson Cochran made a motion to apply for the grant for use in the developing energy strategies and implementation plans, or the HVAC system at the City Administration building and then storm windows at the City Administration building. Councilperson Petty seconded. The motion passed unanimously.

6. Setting the schedule for the remaining dates of budget workshops and of a date for budget adoption and setting the tax rate.

Administrator Thomas suggested a public hearing at 6:30 p.m. on July 14, prior to the next regular Council meeting, to discuss changing the City Code related to fees.

To finish the budget, the following meetings are to be held at 6 p.m.: June 18 to discuss revenues; June

23 for general discussion on the tax rate; and June 25, set tax rate/adopt budget.

During one of the meetings, the City will need to review and decide on the insurance proposals and a request by the Good Will Fire Co. to appear before the City Council.

## **7. Comments from the floor**

Paul Freebery, Eagle Scout advisor for Troop 27, appeared along with two Eagle Scout candidates to brief the City Council on their Eagle projects.

Serguel Akiti, a Life Scout, plans to perform a project to rehabilitate the Community Park at Second Street and Delaware Street. He sought the City Council's approval.

Paul Freebery Jr., a Life Scout, plans to complete a rehabilitation of the benches and picnic tables in Battery Park.

The City Council members expressed support for the two Scouts and their projects.

Paul Freebery said the two Scouts have already been to the Trustees of the New Castle Common and made presentations. The projects will involve between 400 and 600 hours to complete. The cost is estimated at \$1,000 to \$1,600 per project. The approval process for Delmarva Council is time-consuming—approval may take roughly three weeks.

Terri Kane, a resident of 13th St., expressed a concern about the condition of her street. In 2007, the street was supposed to be paved along with 12th and 14th. Twelfth Street was paved and part of 13th Street was paved. She said it is in very bad shape. She said 14th St. is in very bad shape too.

Administrator Thomas said the 2008 work has not been completed yet. The Street is on the list of projects, and high up on it. The City Council will be part of the selection process as far as which streets will be done.

Lida Waters, a resident of 13th St. for 32 years, said trucks have damaged property, sidewalks and parts of the road. Also complained about the barriers on the street and the difficulty of getting off the street onto Washington Street.

Esther Lovlie recognized the efforts of the City Council and the City Administrator for taking proactive steps on the \$50,000 grant since the last meeting. She also said she serves as president of the New Castle Historic Alliance and it is incorporated and actively seeking a non-profit status. She also suggested the possibility of Wharf Dance attendees signing a waiver.

Councilperson Cochran made a motion to adjourn into executive session. Councilperson Petty seconded the motion. The motion was approved unanimously.

The regular meeting adjourned at 8:51 p.m.

Respectfully submitted,

Michael Dickinson  
New Castle City Clerk